

REMARKS

This is intended as a full and complete response to the Office Action dated August 16, 2004, having a shortened statutory period for response set to expire on November 16, 2004. Claims 3-9 stand rejected, and claims 1 and 2 are allowed by the Examiner. Applicants canceled claims 8 and 9 without prejudice. Claims 1-7 remain pending in the application and are shown above. Please reconsider the claims pending in the application for reasons discussed below.

Specification

The specification has been amended as requested by the Examiner to update the status of the divisional application.

Claim Rejections – 35 U.S.C. § 112 (Written description requirement)

Claims 3-9 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The Examiner states that the specification as originally filed does not describe the subject matter directed toward positioning a plurality of loading devices or having a plurality of loading devices positioned on a multi-tube reactor.

Applicants respectfully traverse the rejection. Additionally, Applicants amended the claims to correct matters of form and clarify the claimed invention. These amendments are not presented to distinguish a reference, thus, the claims as amended are entitled to a full range of equivalents.

Applicants replaced the term "loading devices" in the claims with "discrete plates" to clarify any ambiguity or inconsistent use of these terms in the claims. Accordingly, Applicants submit that the specification as originally filed provides support for a plurality of discrete plates for positioning on a multi-tube reactor. Thus, Applicants respectfully request withdrawal of the rejection and allowance of the claims.

Claim Rejections – 35 U.S.C. § 112 (Enablement requirement)

Claims 4-9 stand rejected under 35 U.S.C. § 112, first paragraph, because the specification, while being enabling for a loading device having a polygonal shape, does not reasonably provide enablement for any shape. The Examiner states that the specification only, and specifically, describes the plates of the loading device as polygonal and does not provide support for the more general term “shape” which could also comprise non-polygonal shapes such as ovals or circles.

Applicants respectfully traverse the rejection. First, section 2164.08 of the MPEP states that “limitations and examples in the specification do not generally limit what is covered by the claims.” Accordingly, the description in the specification that the plates are polygonal does not limit the claims to only plates with shapes that are polygonal. The Examiner’s interpretation that the claims “must include a limitation found in the specification is thus legally unsound” and “confuses the respective roles of the specification and claims.” Raytheon Co. v. Roper Corp., 724 F.2d 951, 957 (Fed. Cir. 1983). To the contrary, “the specification must be sufficiently explicit and complete to enable one skilled in the art to practice the invention, while a claim defines only that which the patentee regards as his invention.” Id. Thus, “the claim, not the specification, measures the invention” such that not “everything expressed in the specification must be read into all the claims.” Id.

Accordingly, Applicants submit that the claims define the invention based on spacing between adjacent plates and not whether the shape of the plate used to achieve this spacing is, or is not, polygonal. Page 6, lines 14-17, of the present application contemplates this aspect of the invention by stating that “a small inter-plate space is convenient for ease of handling and for accommodating the dust which inevitably develops during the loading work, thus avoiding that the dust is swept into the reactor pipes.” Additionally, the specification at page 9, lines 9-11, states that “the gap was sufficiently small as not to allow any whole catalyst particles to enter, but allow small chips and broken pieces of catalyst.” Moreover, Applicants note that the Examiner has indicated in the reasons for allowance that this spacing is not taught or suggested by the prior art.

Second, Applicants submit that the polygonal shapes of the plates disclosed in the specification are merely examples of shapes that provide the claimed spacing. According to section 2164.02 of the MPEP, the presence of a working example should never be the sole reason for rejecting claims as being broader than the enabling disclosure. To make a valid rejection, the Examiner must evaluate all the facts and evidence and state why one would not expect to be able to extrapolate that example across the entire scope of the claims. Thus, Applicants submit that the Examiner failed to state why one would not expect to be able to extrapolate the exemplary polygonal shape of the plates to the claimed aspects of the invention relating to spacing between adjacent plates.

For the foregoing reasons, Applicants submit that the claims are in condition for allowance. Accordingly, Applicants respectfully request withdrawal of the rejection and allowance of the claims.

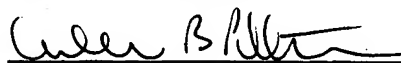
Allowable Subject Matter

Claims 1 and 2 are allowed. Applicants acknowledge allowance of these claims.

Conclusion

The secondary references made of record are noted. However, it is believed that a detailed discussion of the secondary references is not necessary for a full and complete response to this office action. Having addressed all issues set out in the office action, Applicants respectfully submit that the claims are in condition for allowance and respectfully request that the claims be allowed.

Respectfully submitted,



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